

Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

SENATE ENROLLED ACT No. 41

AN ACT to amend the Indiana Code concerning health.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 16-18-2-84 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 84. "Council" refers to the following:

- (1) For purposes of IC 16-21, the hospital council.
- (2) **For purposes of IC 16-25 and IC 16-27, the home health care services and hospice services council.**
- (3) For purposes of IC 16-28 and IC 16-29, the Indiana health facilities council.
- ~~(3)~~ (4) For purposes of IC 16-46-6, the interagency state council on black and minority health.

SECTION 2. IC 16-18-2-96, AS AMENDED BY P.L.2-2003, SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 96. (a) "Director", for purposes of IC 16-19-13, refers to the director of the office of women's health established by IC 16-19-13.

(b) **"Director", for purposes of IC 16-27, means the individual acting under the authority of and assigned the responsibility by the state health commissioner to implement IC 16-27.**

(c) "Director", for purposes of IC 16-28, IC 16-29, and IC 16-30, means the individual acting under the authority of and assigned the responsibility by the state health commissioner to implement IC 16-28, IC 16-29, and IC 16-30.

SEA 41 — Concur+



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~~(c)~~ (d) "Director", for purposes of IC 16-31, refers to the director of the state emergency management agency established under IC 10-14-2-1.

~~(d)~~ (e) "Director", for purposes of IC 16-35-2, refers to the director of the program for children with special health care needs.

SECTION 3. IC 16-18-2-97 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 97. "Division" means the following:

(1) For purposes of IC 16-22-8, the meaning set forth in IC 16-22-8-3.

(2) **For purposes of IC 16-27, a group of individuals under the supervision of the director within the state department assigned the responsibility of implementing IC 16-27.**

(3) For purposes of IC 16-28, a group of individuals under the supervision of the director within the state department assigned the responsibility of implementing IC 16-28.

~~(3)~~ (4) For purposes of IC 16-41-40, the meaning set forth in IC 16-41-40-1.

SECTION 4. IC 16-25-3-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 2.5. The state department shall administer this chapter with the advice of the home health care services and hospice services council established by IC 16-27-0.5-1.**

SECTION 5. IC 16-27-0.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

Chapter 0.5. Home Health Care Services and Hospice Services Council

Sec. 1. (a) The home health care services and hospice services council is established.

(b) The council consists of sixteen (16) members as follows:

(1) One (1) licensed physician experienced in home health care.

(2) One (1) licensed physician with certification in hospice and palliative medicine.

(3) Four (4) individuals as follows:

(A) One (1) individual engaged in the administration of a nonhospital based home health agency.

(B) One (1) individual engaged in the administration of a hospital based home health agency.

(C) One (1) individual engaged in the administration of:
(i) a nonhospital based hospice; or

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(ii) a hospice licensed under IC 16-25-3 that provides in-patient care.

(D) One (1) individual engaged in the administration of a hospital based hospice.

(4) One (1) registered nurse who is licensed under IC 25-23 and experienced in home health care.

(5) One (1) registered nurse who is licensed under IC 25-23 with certification in hospice and palliative medicine.

(6) One (1):

(A) physical therapist licensed under IC 25-27;

(B) occupational therapist certified under IC 25-23.5; or

(C) speech-language pathologist licensed under IC 25-35.6; experienced in home health care.

(7) One (1) citizen having knowledge of or experience in hospice care.

(8) One (1) citizen having knowledge of or experience in home health agency care.

(9) One (1) registered pharmacist who is licensed under IC 25-26 with experience in hospice and palliative medicine.

(10) One (1) respiratory care practitioner who is licensed under IC 25-34.5 and experienced in home care.

(11) One (1) individual who is a bereavement counselor with experience in hospice care.

(12) The commissioner or the commissioner's designee.

(13) The secretary of family and social services or the secretary's designee.

(c) The governor shall appoint the members of the council designated by subsection (b)(1) through (b)(11).

(d) Except for the members of the council designated by subsection (b)(12) through (b)(13), all appointments are for four (4) years. If a vacancy occurs, the appointee serves for the remainder of the unexpired term. A vacancy shall be filled from the same group that was represented by the outgoing member.

(e) Except for the members of the council designated by subsection (b)(3), a member of the council may not have a pecuniary interest in the operation of or provide professional services through employment or under contract to a home health agency licensed under this article or a hospice licensed under IC 16-25.

Sec. 2. (a) The state department shall pay the expenses of the council.

(b) A member of the council who is not a state employee is

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entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). A member is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties, as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(c) Each member of the council who is a state employee is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

Sec. 3. The governor shall appoint one (1) council member to serve as chair and one (1) council member to serve as vice chair.

Sec. 4. The director serves as secretary to the council.

Sec. 5. (a) The council shall meet at least four (4) times a year.

(b) Special meetings of the council shall be called by the chair upon the written request of four (4) members of the council.

Sec. 6. (a) Nine (9) members of the council constitute a quorum for the transaction of all business of the council. The affirmative votes of a majority of the voting members appointed to the council are required for the council to take action on any measure.

(b) The council shall establish procedures to govern the council's deliberations.

Sec. 7. Subject to the rulemaking authority granted in IC 16-25 and IC 16-27, the council shall do the following:

(1) Propose the adoption of rules by the state department under IC 4-22-2 governing the following:

(A) Health and sanitation standards necessary to protect the health, safety, security, rights, and welfare of home health care patients and hospice patients.

(B) Qualifications of applicants for licenses issued under IC 16-25 and IC 16-27.

(2) Recommend to other state agencies or governing bodies rules necessary to protect the health, safety, security, rights, and welfare of home health care patients and hospice patients.

(3) Act as an advisory body for the division, state health commissioner, and state department.

Sec. 8. The council may recommend interpretive guidelines when necessary to assist a home health agency or hospice in meeting the requirements of a rule.

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Sec. 9. (a) The state department may request the council to propose a new rule or an amendment to a rule necessary to protect the health, safety, rights, and welfare of the home health care patients and hospice patients. If the council does not propose a rule within ninety (90) days after the state department's request, the state department may propose the rule.

(b) The executive board shall consider rules proposed by the council under this section and section 7 of this chapter. The executive board may adopt, modify, remand, or reject specific rules or parts of rules proposed by the council.

(c) To become effective, all rules proposed by the council under this chapter must be adopted by the executive board in accordance with IC 4-22-2.

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President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Approved: _____

Governor of the State of Indiana

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